

Local Criminal Notice of Appeal Form.

NOTICE OF APPEAL
United States District CourtSouthern District of New YorkUSA
v.
Aubrey Powell07 Cr. 1050 (SAS) &
Violation of Supervised release
Docket No.: 05-cr-690 (SAS); 05-cr-999 (SAS)Hon. Shira A. Schindlin
(District Court Judge)Notices hereby given that Aubre Powell appeals to the United States Court of Appeals for the Second
Circuit from the judgment (☒), other (☐) (specify)entered in this action on _____
(date)Offense occurred after November 1, 1987 Yes ☒ No ☐This appeal concerns: Conviction only ☐ Sentence only ☐ Conviction and Sentence ☒Date 6-23-08
TO _____Colin T. Richman LANE M. RICHMAN
(Counsel for Appellant)Address 305 Broadway, Suite 100
NY NY 10007Telephone Number: 212 227 1914

ADD ADDITIONAL PAGE (IF NECESSARY)

TO BE COMPLETED BY ATTORNEY

TRANSCRIPT INFORMATION - FORM B

QUESTIONNAIRE

- ☒ I am ordering a transcript JA
☐ I am not ordering a transcript
Reason
☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

TRANSCRIPT ORDER

DESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE)

Prepare transcript of _____ Dates _____
☐ Prepare proceedings _____
☐ Trial _____
☒ Sentencing 6-12-08
☐ Post-trial proceedings _____

The attorney certifies that he/she will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)).
Method of payment ☐ Funds ☐ CJA Form 24 ☒

ATTORNEY'S SIGNATURE

Colin T. Richman

DATE

6-23-08

COURT REPORTER ACKNOWLEDGMENT

To be completed by Court Reporter and forwarded to
Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages

Date _____

Signature _____
(Court Reporter)

DISTRIBUTE COPIES TO THE FOLLOWING:

1. Original to U.S. District Court (Appeals Clerk).
2. Copy U.S. Attorney's Office.
3. Copy to Defendant's Attorney
4. U.S. Court of Appeals
5. Court Reporter (District Court)

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES

AFFIRMATION IN SUPPORT
OF NOTICE OF APPEAL FEE
WAIVER, ASSIGNMENT OF
COUNSEL

-against-

IND. NOS. 07 CR. 1050 (SAS)
05 CR. 690 (SAS)
00 CR. 999 (SAS)

AUBREY POWELL

-----X
I, LABE M. RICHMAN, pursuant to 28 U.S.C. § 1746, hereby declares under penalties
of perjury that the following statements are true and accurate:

1. I am the attorney for defendant at his sentencing on the above three indictments. I am filing this affirmation in support of defendant's application to file a notice of appeal on the above indictment numbers without a fee and for the assignment of counsel other than this attorney. Defendant was convicted of illegal reentry after deportation on the most recent indictment number and was sentenced to 27 months incarceration and three years of supervised release and he was found guilty of a violation of supervised release on the other two indictment numbers which charged the same crime and was sentenced to 12 months in jail consecutive to the 27 month sentence, a total of 39 months.

2. First, I should not be the counsel on this appeal. Prior to sentencing, this defendant was extremely upset with me because I would not file a motion to take back his plea and to dismiss the indictment on the grounds that he was deported in violation of his due process rights. At one point, he indicated to me that he believed that someone from the government had spoken to me and influenced my decision not to challenge the deportation which he believed was totally illegal. He told me that I knew that a motion could be filed. Therefore, the defendant showed a distrust in me and indicated that he wished to attack my judgment regarding whether a motion could be filed. I should, therefore, not be the person who handles this appeal.

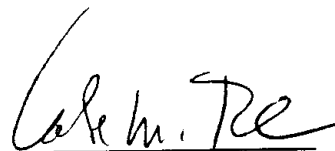
3. As to his eligibility for a waiver of the filing fee and the assignment of free counsel, I should note that prior to my involvement in this case defendant was represented by the Federal Defenders Unit. This was because he was deemed indigent by the district court. Defendant's daughter and wife paid me \$3500 dollars to represent him on the above cases. I also received \$500 dollars for the investigation of a prior plea.

4. These relatives are not obligated to pay for this appeal and they have as yet not paid me for this appeal. Moreover, I should note that the probation report in these cases made a specific finding that the defendant was indigent and accordingly, the district court did not impose any fine. Therefore, based on these findings, defendant is therefore eligible for *in pauperis* relief.

5. It is for these reasons that this Court should allow the defendant to file a notice of appeal without a fee and it should assign CJA counsel other than this attorney or the Federal Defenders Unit.

Dated: New York, NY

June 17, 2008



LABE M. RICHMAN
Attorney for Petitioner
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Labe@Labe Richman.com

To: Clerk, USCA - 2nd Circuit, USDC-SDNY, Appeals Clerk

U.S. Attorney's Office, SDNY

Defendant-Appellant Aubrey Powell

CERTIFICATION OF SERVICE

STATE OF NEW YORK)

) ss.:

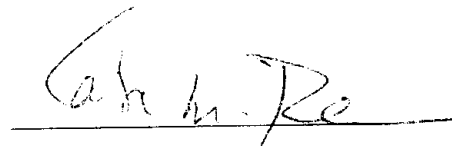
COUNTY OF NEW YORK)

I, LABE M. RICHMAN, an attorney duly admitted to the practice in the Courts of this State, do hereby affirm under the penalties of perjury that the following statements are true:

On June 19, 2008, I served the within Pro Se materials on the AUSA assigned to the case, AUSA Jeffrey Alberts by mailing said materials to her at One St. Andrews Plaza, New York, NY 10007 and to defendant at the MCC, 150 Park Row, New York, NY 10007.

Dated: New York, New York

June 19, 2008

A handwritten signature in cursive script, appearing to read "Labe M. Richman", written over a horizontal line.

LABE M. RICHMAN